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APR 11 2005

WATER RIGHTS
SALT LAKE

IN THE EIGHTH JUDICIAL DISTRICT COURT OF DUCHESNE COUNTY
STATE OF UTAH

IN THE MATTER OF THE GENERAL	)	PETITION TO APPROVE 2004
DETERMINATION OF ALL THE	)	COMMISSIONER'S REPORT, 2005
RIGHTS TO THE USE OF WATER	)	BUDGET AND SCHEDULE OF ASSESS-
BOTH SURFACE AND UNDERGROUND	)	MENTS, 2005 SCHEDULE OF DIS-
WITHIN THE DRAINAGE AREA OF	)	TRIBUTION AND REQUEST TO
THE UINTAH BASIN IN UTAH	)	APPOINT THE 2005 RIVER COMMIS-
	)	SIONER FOR THE UINTA AND
	)	WHITEROCKS RIVERS
)	
	)	Docket No. 3070
	)	Judge John R. Anderson
)	

Petitioner and the Committee for the Uinta and Whiterocks Rivers, submit herewith the 2004 Annual Report of the Commissioner, the proposed 2005 Budget and Schedule of Assessments, and the 2005 proposed Schedule of Distribution, in accordance with the Interim Distribution Order signed by the Court on May 18, 1998. Petitioners, also, request the Appointment of the River Commissioner for the year 2005.

In support of this Petition, Petitioners represent to the Court that;

1. By its Interim Order dated May 18, 1998, a committee of water users for the Uinta and Whiterocks Rivers was organized under the direction of this Court. Petitioner Clinton Nielson, was Chairman of the committee appointed by this Court to support the River Commissioner and to aid in carrying out the orders of this Court, in connection with the distribution system for the waters of the Uinta and Whiterocks River systems.

2. The Committee of the Uinta and Whiterocks Rivers met on March 2, 2005 and Petitioner, Clinton Nielson, was elected Chairman of that committee and is authorized to file this Petition on behalf of said committee.

3. The committee received and approved the 2004 report of the administration of the waters of the Uinta and Whiterocks Rivers by Shane Hamblin, the River Commissioner for the year 2004. A copy of that report is filed herewith.

4. The committee reviewed and approved a budget, with schedule of assessments, for the expenses of the River Commissioner for the year 2005. The Budget and Schedule of Assessments are attached hereto as "Exhibit A".

5. The committee has reviewed and approved, after consultation with the Utah State Engineer, a proposed Schedule of Distribution of the Waters of the Uinta and Whiterocks Rivers and

recommends it to the Court, for the year 2005. The proposed Schedule of Distribution is attached hereto as "Exhibit B".

6. The committee voted to recommend to the Court the appointment of Shane Hamblin as River Commissioner of the Uinta and Whiterocks Rivers, for a term of one (1) year. Petitioner further alleges that Shane Hamblin is a competent and qualified person to act as said River Commissioner.

7. It is requested by the committee, if for any reason the River Commissioner does not complete his term of office or is unable to fulfill his obligations as Commissioner, that the committee be authorized to select a temporary replacement River Commissioner.

8. The committee requests that the Interim Order entered for the irrigation year of 1998 be reaffirmed and made applicable for the 2005 irrigation year, in the following respects:

a. It is requested that the River Commissioner be allowed to distribute the water of the streams and reservoirs involved in accordance with this Court's Interim Order and to do all things necessary for the proper and correct measurement, diversion and distribution of said waters, in accordance with the Decrees of the Federal District Court and state laws.

b. That the River Commissioner be directed to confer with the respective committees in developing a schedule for distribution

of water, specifically, the manner in which the waters of the Uinta and Whiterocks Rivers, and their tributaries, should be distributed, after consultation with the State Engineer, and shall submit annually a recommended Interim Distribution Order to this Court for its consideration.

c. That the River Commissioner be directed to deliver and distribute the waters of such non-Federal water rights in the Uinta and Whiterocks Rivers, in accordance with the proposed Schedule of Distribution, attached hereto as "Exhibit B".

d. That the waters for the Federal and non-Federal water rights be distributed in accordance with the terms and limitations of the 1923 Federal Court Decrees in cases numbered 4437 and 4418.

e. That the River Commissioner be required to work with the respective committees to prepare a recommended budget to be submitted to the Court along with a recommended annual budget. Said annual report and recommended budget are to contain assessments made, monies received, along with a report of expenditures. The Court, after receiving the proposed annual budget, shall provide a thirty (30) day period for objections to be filed.

f. Upon approval by the Court, the River Commissioner be authorized to manage the budget, to implement the ordered assessments and collection of assessed amounts from the non-Federal

water user organizations or water users, and request assessment and collection from the Bureau of Indian Affairs on the Uintah Indian Irrigation Project, in accordance with the approved budget and schedule of assessment.

g. Any person or entity, which is a water user in the subject rivers, or otherwise affected by the actions of the River Commissioner, may petition and appear before this Court (about the assessment amounts, the manner in which the water is distributed and/or any other claim relating to the distribution of water). In the event there is a violation of the Court's Order or any part of this Petition or, in the opinion of the River Commissioner, the occurrence of the unauthorized use of water, the River Commissioner be directed to recommend to this Court a solution to the problem, including any remedy to be imposed on the unauthorized water user or violator of the Order.

h. If a non-Federal water user fails to pay any assessments levied, when due, that water users further use of water be prohibited.

WHEREFORE, Petitioner prays as follows:

1. That the 2004 report of the administration of the waters of the Uinta and Whiterocks Rivers be approved, as submitted and filed herewith.

2. That the 2005 Budget and Schedule of Assessments, be approved, as submitted and attached hereto as "Exhibit A".

3. That the proposed 2005 Schedule of Distribution of Waters of the Uintah and Whiterocks Rivers be approved, as submitted and attached hereto as "Exhibit B".

4. That Shane Hamblin be appointed to serve as River Commissioner of the Uinta and Whiterocks Rivers, for a period of one (1) year.

5. That the Committee for the Uinta and Whiterocks Rivers be authorized to appoint a temporary replacement should the River Commissioner be unable to complete the one (1) year term.

6. That the applicable provisions of the 1998 Interim Order, as presented herein, be reaffirmed and made effective for the year 2005.

DATED this 4 day of April, 2005.

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Attorneys for Petitioners

By: Gayle McKeachnie
Gayle F. McKeachnie

By: Clinton Nielson
Clinton Nielson
Chairman of the Committee
for the Uintah and White-
rocks Rivers